City of Seattle

Gregory J. Nickels, Mayor
Department of Design, Construction and Land Use
D. M. Sugimura, Director

CITY OF SEATTLE
ANALYSIS AND DECISION OF THE DIRECTOR OF
THE DEPARTMENT OF DESIGN, CONSTRUCTION AND LAND USE

Application Number: 2203140

Applicant Name: Stephen Meadows of Stephen Meadows & Assoc., Inc. for Nextel

Address of Proposal: 119 19th Avenue

SUMMARY OF PROPOSED ACTION

Master Use Permit for future expansion of an existing minor communication utility (Nextel Communications). Expansion will consist of four (4) panel antennas (1 sector, 4 antennas per sector) for a total of eight (8) panel antennas on the roof of an existing apartment building.

The following approval is required:

Administrative Conditional Use Review, to allow a minor communication utility in a residential Lowrise 3 (L3) zone.

SEPA - Environmental Determination - *Chapter 25.05*, Seattle Municipal Code

SEPA DETERMINATION: [ ] EXEMPT [ ] DNS [ ] EIS

[**X**] DNS with conditions

[ ] DNS involving non-exempt grading or demolition involving another agency with jurisdiction

BACKGROUND DATA

Site Location and Description

The subject property is located in a Multi-Family Residential Lowrise 3 (L3) Zone located at 119 19th Avenue. The subject site is located on 19th Avenue between E Fir Street and E Yesler Way, east of Interstate 5.

The site is developed with an existing three-story apartment building and associated yard and parking areas. The surrounding zoning and uses are:

North: Multi-Family Residential, L3 zone
East: Multi-Family Residential, L3 zone
South: Multi-Family Residential, L3 zone
West: Multi-Family Residential, L3 zone

Proposal Description

The applicant proposes future expansion of an existing minor communication utility (Nextel Communications). The expansion would consist of four (4) panel antennas (1 sector, 4 antennas per sector) for a total of eight (8) panel antennas on the roof of an existing apartment building.

The maximum proposed height for the top of the antennas is 26 feet above the existing grade (the height at the southeast corner of the building). The height limit for the L3 zone is thirty (30) feet above grade. Therefore, approval through an Administrative Conditional Use Permit is required in order to locate the minor communication utility in a residential zone only, and not because the minor communication utility is proposed to exceed the height limit of the zone.

Public Comment

DCLU has received two comment letters opposing this proposal for aesthetic, electrical interference and health reasons.

Analysis of Public Comment

Review of this proposal reveals that the application complies with the most current requirements of the Seattle Municipal Code (SMC) with regards to screening (SMC 23.57.016.C & 23.57.011.C.5), height limitations (SMC 23.45.009.A), setbacks (SMC 23.45.014.A) and allowed radiation levels (see Applicant's Statement of Federal Communications Commission Compliance). The concerned citizens provide no evidence as to how the application conflicts with any provision of the Seattle Municipal Code.

ADMINISTRATIVE CONDITIONAL USE CRITERIA AND ANALYSIS

Section 23.57.011.B of the Seattle Municipal Code (SMC) provides that a minor communication utility may be permitted in a Multi-Family zone as an administrative conditional use subject to the requirements and conditioning considerations of this Section enumerated below.

1. *Section 23.57.011.B.1: The project shall not be substantially detrimental to the residential character of nearby residentially zoned areas, and the facility and the location proposed shall be the least intrusive facility at the least intrusive location consistent with effectively providing service. In considering detrimental impacts and the degree of intrusiveness, the impacts considered shall include but not be limited to visual, noise, compatibility with uses allowed in the zone, traffic, and the displacement of residential dwelling units.*

   According to the plans submitted, the antennas will conform to codified requirements regarding setbacks and visual impacts. The proposed facility is to be located within RF transparent "canisters" that will obscure the proposed antennas entirely from view. The applicant's plans depict minimal integration of architectural design in the form of paint color for roof access gates, which would match the color of the host building. The plans as proposed do not give reason to expect unacceptable noise levels. No dwelling units will be displaced in conjunction with this application. Thus, the proposal will not be substantially detrimental to the residential character of nearby residentially zoned areas (See applicant's declarations and submitted plans and correction revisions).

2. *Section 23.57.011.B.2: The visual impacts that are addressed in section 23.57.016 shall be mitigated to the greatest extent practicable.*

   According to the revised plans submitted on February 21, 2003 the proposed antennas would be screened from within RF transparent "canisters" resembling small smokestacks or chimneys. Therefore, the proposal complies with this criterion (See applicant's declarations, submitted plans and correction revisions).

3. *Section 23.57.011.B.3: Within a Major Institution Overlay District, a Major Institution may locate a minor communication utility or an accessory communication device, either of which may be larger than permitted by the underlying zone, when:*
   a.) *the antenna is at least one hundred feet (100') from a MIO boundary, and*
   b.) *the antenna is substantially screened from the surrounding neighborhood's view.*

   The proposed site is not located within a Major Institution Overlay District. Therefore, this requirement does not apply to the subject proposal.

4. *Section 23.57.011.B.4: If the minor communication utility is proposed to exceed the zone height limit, the applicant shall demonstrate that the requested height is the minimum necessary for the effective functioning of the minor communication utility.*

   According to the plans submitted, the antennas will not exceed the 30-foot height limit set for the L3 zone. Therefore, this requirement does not apply to the subject proposal (See applicant's declarations, submitted plans and correction revisions).

5. *Section 23.57.011.B.5: If the proposed minor communication utility is proposed to be a new freestanding transmission tower, the applicant shall demonstrate that it is not technically feasible for the proposed facility to be on another existing transmission tower or on an existing building in a manner that meets the applicable development standards. The location of a facility on a building on an alternative site or sites, including construction of a network that consists of a greater number of smaller less obtrusive utilities, shall be considered.*

   According to the plans submitted, the proposed minor communication utility will not be a new freestanding transmission tower. Therefore, this requirement does not apply to the subject proposal (See applicant's declarations, submitted plans and correction revisions).

6. *Section 23.57.011.C.1, Location: Minor communications utilities and accessory communications devices regulated pursuant to Section 23.57.002…*

   a.) are prohibited in a required front or side setback.
   b.) may be located in a required rear setback, except for transmission towers.

   The plans submitted do not propose communications devices in front, side or back setbacks. Therefore, the proposal complies with these criteria (See applicant's declarations, submitted plans and correction revisions).

   c.) In all Lowrise, Midrise and Highrise zones, minor communication utilities and accessory communications devices may be located on rooftops of buildings, including sides of parapets and penthouses above the roofline. Rooftop space within the following parameters shall not count toward meeting open space requirements: the area eight feet (8') from and in front of a directional antenna and at least two feet (2') from the back of a directional, or, for an omnidirectional antenna, eight feet (8') away from the antenna in all directions. The Seattle-King County Public Health Department may require a greater distance for paging facilities after review of the Non-Ionizing Electromagnetic Radiation (NIER) report.

   According to the plans submitted by the applicant, the proposed antennas will be located on the roof of the existing residential structure. There is no conflict with the site requirements for open space in this instance as there is adequate open space at ground level without utilizing the roof for such purposes. Therefore, this

requirement does not apply to the subject proposal (See applicant's declarations, submitted plans and correction revisions).

7. *Section 23.57.011.C.2: Height and Size.*

   a.) *The height limit of the zone shall apply to minor communication utilities and accessory communication devices, except as may be permitted in subsection C of this section.*

   According to the plans submitted, the antennas will not exceed the 30-foot height limit set for the L3 zone. Therefore, this requirement does not apply to the subject proposal (See applicant's declarations, submitted plans and correction revisions).

8.) *Section 23.57.011.C.3 Visual Impacts: All minor communication utilities and accessory communication devices, except for facilities located on buildings designated by the Seattle Landmarks Preservation Board, facilities governed by Section 23.57.014, and amateur radio towers, shall meet the standards set forth in Section 23.57.016.*

The proposal meets the screening standards of SMC 23.57.016. Therefore, this criterion is satisfied (See applicant's declarations, submitted plans and correction revisions).

9.) *Section 23.57.011.C.4 Access and Signage: Access to transmitting minor communication utilities and to accessory communication devices shall be restricted to authorized personnel by fencing or other means of security. Warning signs at every point of access to the rooftop or common area shall be posted with information on the existence of radio-frequency radiation.*

According to the plans submitted, required security and safety features are proposed. The antennas are to be situated behind a wooden fence on the roof of the existing apartment building. The accessory communication devices will be located in a room specifically designated for this purpose. Locked gates and warning signs are depicted on the plans at each external point of access to the roof. Therefore, the proposal complies with this criterion (See applicant's declarations, submitted plans and correction revisions).

10.) *Section 23.57.011.C.5 Reception Window Obstruction: When, in the case of an accessory communications device or minor communications utility that would otherwise comply with this section, the strict adherence to all development standards would result in reception window obstruction in all permissible locations on the subject lot, the Director may grant a waiver from the screening requirements of Section 23.57.016.*

The applicant is not requesting relief from the screening standards of SMC 23.57.011.C.5. Therefore, this requirement does not apply to the proposal (See applicant's declarations, submitted plans and correction revisions).

11.) 23.57.016 Visual Impacts and Design Standards:

A. Telecommunication facilities shall be integrated with the design of the building to provide an appearance as compatible as possible with the structure. Telecommunication facilities, or methods to screen or conceal facilities, shall result in a cohesive relationship with the key architectural elements of the building.

The facility is to be located within RF transparent "canisters" that will obscure the proposed antennas entirely from view. The applicant's plans depict minimal integration of architectural design via paint color for roof access gates, which would match the color of the host building. Therefore, the proposal complies with this criterion (See applicant's declarations, submitted plans and correction revisions).

C. If mounted on a flat roof, screening shall extend to the top of communication facilities except those whip antennas may extend above the screen as long as mounting structures are screened. Said screening shall be integrated with architectural design, material, shape and color. Facilities in a separate screened enclosure shall be located near the center of the roof, if technically feasible. Facilities not in a separate screened enclosure shall be mounted flat against existing stair and elevator penthouses or mechanical equipment enclosures shall be no taller than such structures.

The facility is to be located within RF transparent "canisters" that will obscure the proposed antennas entirely from view. The applicant's plans depict minimal integration of architectural design via paint color for roof access gates, which would match the color of the host building. Therefore, the proposal complies with this criterion (See applicant's declarations, submitted plans and correction revisions).

F. New antennas shall be consolidated with existing antennas and mechanical equipment unless the new antennas can be better obscured or integrated with the design of other parts of the building.

In this case, although there are existing antennas located along the northeast portion of the host building's roof, the new antennas are better obscured and integrated with the design of the building at their proposed location, the southeast portion of the building's roof. This is due to the fact that they are meant to provide RF coverage to the south of the host building. Placing them at the northeast end of the building would require that the antennas be raised significantly in height to cover the intended area without encountering interference from the roof, which would make them much less obscured than currently proposed. Therefore, the proposal complies with this criterion (See applicant's declarations, submitted plans and correction revisions).

SUMMARY

The proposed project is consistent with the City of Seattle Municipal Code as it applies to wireless communication utilities. The facility is minor in nature and will not be detrimental to the surrounding area while providing needed and beneficial wireless communications service to the area.

The proposed project will not require the expansion of public facilities and services for its construction, operation and maintenance. The site will be unmanned and therefore will not require waste treatments, water or management of hazardous materials. Once installation of the facility has been completed, approximately one visit per month would occur for routine maintenance. No other traffic would be associated with the project."

DECISION - ADMINISTRATIVE CONDITIONAL USE

APPROVED.

SEPA ANALYSIS

Environmental review resulting in a Threshold Determination is required pursuant to the State Environmental Policy Act (SEPA), WAC 197-11, and the Seattle SEPA Ordinance (Seattle Municipal Code Chapter 25.05).

The SEPA Overview Policy (SMC 25.05.665 D) clarifies the relationship between codes, policies, and environmental review. Specific policies for each element of the environment, certain neighborhood plans, and other policies explicitly referenced may serve as the basis for exercising substantive SEPA authority. The Overview Policy states, in part: "Where City regulations have been adopted to address an environmental impact, it shall be presumed that such regulations are adequate to achieve sufficient mitigation," subject to some limitations. Under such limitations/circumstances (SMC 225.05.665 D1-7) mitigation can be considered.

The initial disclosure of the potential impacts from this project was made in the environmental checklist submitted by the applicant dated June 7, 2002. The information in the checklist, public comment, and the experience of the lead agency with review of similar projects forms the basis for this analysis and decision.

Short-Term Impacts

Environmental Health

The Federal Communications Commission (FCC) has pre-empted state and local governments from regulating personal wireless service facilities on the basis of environmental effects of radio

frequency emissions. As such, no mitigation measures are warranted pursuant to the SEPA Overview Policy (SMC 25.05.665).

The applicant has submitted a "Statement of Federal Communication Commission Compliance for Personal Wireless Service Facility" and an accompanying "Affidavit of Qualification and Certification" for this proposed facility giving the calculations of radiofrequency power density at roof and ground levels expected from this proposal and attesting to the qualifications of the Professional Engineer who made this assessment. This complies with the Seattle Municipal Code Section 25.10.300 that contains Electromagnetic Radiation standards with which the proposal must conform. The Department's experience with review of this type of installation is that the EMR emissions constitute a small fraction of that permitted under both Federal standards and the standards of SMC 25.10.300 and therefore pose no threat to public health.

Construction and Noise Impacts

Codes and development regulations applicable to this proposal will provide sufficient mitigation for most impacts. The initial installation of the antennas and construction of the equipment room may include loud equipment and activities. This construction activity may have an adverse impact on nearby residences. Due to the close proximity of nearby residences, the Department finds that the limitations of the Noise Ordinance are inadequate to appropriately mitigate the adverse noise impacts associated with the proposal. The SEPA Construction Impact policies, (SMC 25.05.675.B) allow the Director to limit the hours of construction to mitigate adverse noise and other construction-related impacts. Therefore, the proposal is conditioned to limit construction activity to non-holiday weekday hours between 7:30 a.m. and 6:00 p.m.

DECISION

This decision was made after review by the responsible official on behalf of the lead agency of a completed environmental checklist and other information on file with the responsible department. This constitutes the Threshold Determination and form. The intent of this declaration is to satisfy the requirement of the State Environmental Policy Act (RCW 43.21.C), including the requirement to inform the public of agency decisions pursuant to SEPA.

[X] Determination of Non-Significance. This proposal has been determined not to have a significant adverse impact upon the environment. An EIS is not required under RCW 43.21.030(2) (c).

ADMINISTRATIVE CONDITIONAL USE CONDITIONS

None.

SEPA CONDITIONS

During Construction

The following condition to be enforced during construction shall be posted at the site in a location on the property line that is visible and accessible to the public and to construction personnel from the street right-of-way. If more than one street abuts the site, conditions shall be posted at each street. The conditions will be affixed to placards prepared by DCLU. The placards will be issued along with the building permit set of plans. The placards shall be laminated with clear plastic or other waterproofing material and shall remain posted on-site for the duration of the construction.

1. In order to further mitigate the noise impacts during construction, the hours of construction activity shall be limited to non-holiday weekdays between the hours of 7:30 a.m. and 6:00 p.m. This condition may be modified by DCLU to allow work of an emergency nature or allow low noise interior work. This condition may also be modified to permit low noise exterior work after approval from the Land Use Planner.

Signature: (signature on file) Date: March 17, 2003
John Bissell, Contract Land Use Planner
Department of Design, Construction and Land Use

JB:rgc
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